

**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**

ORDER

**S.B.Civil Writ Petition No. 609/2006
(Jagram Vishnoi Vs. District Supply Officer, Barmer &
Anr.)**

Date of judgment:- 25.10.2007

HON'BLE MR.JUSTICE SANGEET LODHA

Mr. Rajesh Parihar , for the petitioner.
Mr.B.L.Tiwari, Dy.G.A. for respondent no.1.
Mr. B.L.Bishnoi for respondent no.2.

BY THE COURT:-

In this writ petition, the petitioner has assailed the validity of order dated 23.01.2006 issued by the respondent no. 1 District Supply Officer, Barmer, whereby respondent no. 2 Shri Sukharam has been allotted fair price shop for village Shobhala Darshan, District Barmer.

The brief facts leading to the filing of present writ petition are that on 11.04.2005, a notification was issued by the District Supply Officer, Barmer, for allotment of fair price shop inter alia in village Shobhala Darshan. In pursuance of the said notification, the Shobhala Darshan Gram Seva Sahkari Samiti Ltd. represented by the petitioner, the respondent no. 2 Shri Sukh Ram and one Shri Gula Ram applied for allotment of fair price shop in accordance with the procedure laid down. The

applications for allotment of the shop were considered by Allotment Advisory Committee presided over by the District Supply Officer, Barmer in its meeting held on 20.05.2005. A perusal of the minutes placed on record as Annexure-3 goes to show that the majority of the members expressed their opinion for allotment of the shop in favour of Shri Gula Ram S/o. Chatra Ram Bheel. However, it is stated that later Shri Gula Ram filed an affidavit withdrawing his application for allotment of the shop in favour of the petitioner-Gram Seva Sahakari Samiti, Ltd. There is no material on record to show that the competitive claims of the petitioner society and Shri Sukha Ram were considered by the Allotment Advisory Committee afresh after withdrawal the application by Shri Gula Ram. Though, the order impugned recites that the allotment of the shop in favour of the respondent no. 2 has been made in pursuance of unanimous/majority decision of the fair price shop Allotment Advisory Committee, but the fact remains that no such decision of the said committee has been placed on record, even after a specific plea being taken by the petitioner by way of additional affidavit, that the meeting held on 20.05.2005 was the only meeting held in respect of allotment of fair price shop in village Shobhala Darshan, and thereafter, no meeting was held. It is to be noted that in the meeting of the Advisory Committee held on 20.05.2005, one member each expressed the opinion for

allotment of the shops in favour of the petitioner society and the respondent no.1. Therefore, after withdrawal of the application by Shri Gula Ram, in whose favour the majority of members expressed the opinion for allotment of the shop, it was incumbent upon the respondents to convene the meeting of the said Advisory Committee for consideration of the competitive claims of the petitioner society and the respondent no.1 afresh. As noticed above , there is no material on record to show that any such fresh consideration was ever made. It goes without saying that the public authorities while taking a decision to allot the fair price shop cannot act according to their whims and fancy. It is true that neither the petitioner, nor respondent no. 2 can claim the dealership as a matter of right, but then, the activities of the government has a public element and therefore, there should be fairness and equality. The respondents are under obligation to maintain complete transparency in the matter of allotment of the fair price shop in conformity with the provisions of the Rajasthan Foodgrains and Other Essential Articles (Regulation of Distribution), Order 1976. Thus, the order of allotment of fair price shop in favour of respondent no. 2 without consideration of the competitive claims on their own merits according to the norms laid down, is not sustainable in the eye of law.

In the result, the writ petition succeeds, it is hereby

allowed. The order impugned (Annexure-5) so far as it relates to allotment of fair price shop in favour of the respondent no. 2 in the village Shobhana Darshan is quashed. The respondents are directed to consider the competitive claim of the petitioner society and the respondent no. 2 afresh in accordance with the procedure laid down, within a period of one month from the date of this order.

No order as to costs.

(SANGEET LODHA),J.